

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Sweeney	Team: Squad #9	CCRB Case #: 201506484	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/29/2015 6:40 PM	Location of Incident: 159th Street and South Road	Precinct: 103	18 Mo. SOL 1/29/2017	EO SOL 1/29/2017	
Date/Time CV Reported Wed, 08/05/2015 1:11 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/05/2015 1:11 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mark Sinatra	04720	944174	NARCBQN
2. DT3 Delcar Balcena	5757	943021	NARCBQN
3. DT3 Daniel Ludemann	4386	938892	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Mark Sinatra	Abuse: Sgt. Mark Sinatra stopped the vehicle in which § 87(2)(b) was an occupant.	
B.DT3 Delcar Balcena	Abuse: Det. Delcar Balcena stopped the vehicle in which § 87(2)(b) was an occupant.	
C.DT3 Daniel Ludemann	Abuse: Det. Daniel Ludemann stopped the vehicle in which § 87(2)(b) was an occupant.	
D.DT3 Delcar Balcena	Abuse: Det. Delcar Balcena frisked § 87(2)(b)	
E.DT3 Delcar Balcena	Abuse: Det. Delcar Balcena searched § 87(2)(b)	
F.SGT Mark Sinatra	Abuse: Sgt. Mark Sinatra searched the vehicle in which § 87(2)(b) was an occupant.	
G.DT3 Delcar Balcena	Abuse: Det. Delcar Balcena searched the vehicle in which § 87(2)(b) was an occupant.	
H.SGT Mark Sinatra	Abuse: Sgt. Mark Sinatra refused to provide his shield number to § 87(2)(b)	

Case Summary

On July 29, 2015, at approximately 6:40 p.m., § 87(2)(b) was driving north on 160th Street in Queens. She stopped at the intersection of 160th Street and 107th Avenue because she saw a young unidentified male individual who was friends with her son. He approached her window and they talked for approximately three minutes. She then continued driving north on 160th Street and stopped at the light on South Road before turning left. Officers, identified via the investigation as Sgt. Mark Sinatra, Det. Delcar Balcena, and Det. Daniel Ludemann of Queens Narcotics, proceeded to stop § 87(2)(b) (**Allegations A-C**). An officer identified as Sgt. Sinatra allegedly ordered her to step out of the vehicle, and § 87(2)(b) complied. An officer identified as Det. Balcena approached § 87(2)(b) and allegedly frisked and searched her (**Allegations D and E**). Sgt. Sinatra and Det. Balcena allegedly searched her vehicle (**Allegations F and G**). § 87(2)(b) asked for the officers' shield numbers, and Sgt. Sinatra allegedly provided her with a five-digit number, with the first three digits being 2-0-5. Sgt. Sinatra's shield number is 4720 (**Allegation H**). Det. Balcena provided her shield number, and Det. Ludemann said something, but § 87(2)(b) did not hear it. § 87(2)(b) did not receive a summons and was not arrested.

There is no video footage in this case.

Mediation, Civil and Criminal Histories

- On August 13, 2015, § 87(2)(b) was presented with mediation during her interview. She chose to pursue an investigation because she wanted the officers to be punished (Board Review 1).
- On October 20, 2015, an email from the City Comptroller's Office indicated that no Notice of Claim had been filed in regard to this incident (Board Review 2).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian and Officer CCRB Histories

- Sgt. Sinatra has been a member of service for eight years and has nine CCRB cases with 21 total allegations (Board Review 4). None of his previous allegations have been substantiated. In case 201013662, refusal to provide name and shield was alleged, and it was closed as complainant uncooperative. In case 201411322, a stop was alleged, and it was closed as unsubstantiated. In case 201502100, a vehicle stop was alleged and closed as exonerated, while a vehicle search allegation was closed as unsubstantiated. § 87(2)(g)
[REDACTED]
[REDACTED]

The civilian denied that he failed to signal, but the VTL violation was listed in his arrest report, so the stop was deemed exonerated. In case 201506377, a refusal to provide name and shield and a search of person were alleged. § 87(2)(g)
[REDACTED]
[REDACTED]

[REDACTED] In case 201506493, which remains open with Squad One, a vehicle stop, vehicle search, refusal to provide name and shield number, and search of person were alleged. In that case, the complainant alleged that Sgt. Sinatra provided his shield number as 28505 upon being asked. Sgt. Sinatra

stated that he initiated the stop after seeing something that could have been a possible drug transaction and observing the vehicle parked in a bus lane (Board Review 5).

- Det. Balcena has been a member of service for eight years and has five CCRB cases with 12 total allegations, none of which have been substantiated. In case 201506493, a search was alleged, and the investigation remains open with Squad One (Board Review 6).
- Det. Ludemann has been a member of service for ten years. He has eight cases and 18 total allegations, none of which have been substantiated. In case 201411322, a stop was alleged, and it was unsubstantiated. In case 201502100, a vehicle stop allegation was exonerated. In case 201506263, a stop was alleged. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g) In case 201506377, a stop was alleged, § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g) (Board Review 7).
- This is § 87(2)(b) second CCRB complaint. In case number 201400433, § 87(2)(b) alleged that officers stopped her vehicle and drew her guns. That case was closed as complainant uncooperative (Board Review 8).

Potential Issues

Despite two separate attempts by the Field Team, no video footage or witnesses could be located in regard to this case.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) described the officer who stopped and searched her as a 35 year-old white male who stood about 5'8" tall, weighed approximately 180 pounds, with a bald head and no facial hair or glasses. § 87(2)(b) thought that he might have been the officer in charge because he was very bossy. When § 87(2)(b) asked for his shield number, he said, "2-0-5" followed by two other digits that § 87(2)(b) could not recall (Board Review 1). Sgt. Sinatra is a white male who stands 5'10" tall, weighs 200 pounds, and is completely bald (Board Review 9). His shield number when he was a police officer was 28505 (Board Review 10).

§ 87(2)(b) described the officer who stopped and searched her vehicle and frisked and searched her person as a light-skinned Hispanic female who stood approximately 5'2" tall, weighed 150 pounds, and had black hair. She provided her shield number as "5757" upon § 87(2)(b) request (Board Review 1). Det. Balcena's MOS photo lists her as a § 87(2)(b)-old Hispanic female who stands 5'3" tall, weighs 130 pounds, and has blonde hair (Board Review 11). When Det. Balcena was interviewed, she had dark red hair (Board Review 12).

§ 87(2)(b) described the third officer who stopped her as a white male in his late 30s who stood 5'9" tall, weighed 200 pounds, and had brown hair (Board Review 1). Det. Ludemann is a 32 year-old white male who stands 5'10" tall, weighs 260 pounds, and has brown hair (Board Review 13).

Allegation A—Sgt. Mark Sinatra stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B—Det. Delcar Balcena stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C—Det. Daniel Ludemann stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that she was driving north on 160th Street and stopped at 160th Street and 107th Avenue (Board Review 1). Before she parked, she stopped because she saw a young unidentified male individual who was friends with her son walking on the street. § 87(2)(b) thought that the male “probably” was at the bodega on the corner before approaching her vehicle (Board Review 14). The male approached § 87(2)(b) window and offered his condolences for the death of her father. They spoke for approximately three minutes, and the male remained at her window the entire time while § 87(2)(b) remained in her car. § 87(2)(b) acknowledged that she was double-parked when she stopped. § 87(2)(b) never handed the male anything, and the male never handed anything to § 87(2)(b). After speaking with the male, § 87(2)(b) continued driving on 160th Street, and stopped at the light on South Road. She turned left and used her signal (Board Review 14). Immediately after she turned, she heard sirens behind her. The only reason the officers gave for stopping § 87(2)(b) was that her vehicle matched the description of one that was used in a recent robbery. They never said anything about being double-parked or the male who had approached her window. She did not receive any summons for any traffic violation.

Sgt. Sinatra’s memo book read: “Car stop at 159 Street and South Road. Possible CSCS (Criminal Sale of Controlled Substance). Grey Mazda occupied female black, no PC to arrest, 250 prepared, subject refused ID” (Board Review 15). Sgt. Sinatra stated that he was sitting in the front passenger seat, while Det. Balcena was driving, and Det. Ludemann was in the backseat. Sgt. Sinatra said they observed a female driver parked on the side of the street on Brewer Boulevard and 107th Avenue. Narcotics often patrols in the four or five blocks around this area because there is a housing project nearby. There is nothing about this particular intersection that makes it exceptionally drug-prone. There was nothing he noticed about the car or its driver when he first observed the vehicle. An unidentified black male approached the front passenger window of the vehicle, and Sgt. Sinatra thought he observed a “possible hand-to-hand” between the male and § 87(2)(b). The officers were approximately two blocks behind § 87(2)(b) vehicle when they observed this possible hand-to-hand. Sgt. Sinatra believed that the male had been standing on the corner before he approached the vehicle. Sgt. Sinatra assumed that § 87(2)(b) window was down, but he acknowledged that from his position, he could not see clearly, and he did not want to assume it was down. Sgt. Sinatra clarified that he only saw the male—he did not see the possible hand-to-hand. Det. Balcena told Sgt. Sinatra that she saw a possible hand-to-hand between the driver and the male outside of the vehicle. She did not say anything more specific than that—just “possible hand-to-hand.” The interaction between the male and § 87(2)(b) lasted approximately one minute. The male did not walk away from the car at any point during that one-minute period. The officers were observing the vehicle from behind the entire time; they never drove around the vehicle. The vehicle started north, stopped at the light on South Road, and turned left. When § 87(2)(b) turned left, she failed to signal. Nothing besides the possible hand-to-hand that Det. Balcena observed and the failure to signal factored into the decision to stop § 87(2)(b). Det. Balcena admonished § 87(2)(b) for the infraction, and did not issue her a summons (Board Review 16).

Det. Balcena's memo book entry read: "1 stopped. 250 refused. South and 159 Street. Op-OBS and 160 and 107" (Board Review 17). Det. Balcena clarified that "Op-OBS" meant "watching and observation." Det. Balcena stated that she was sitting in the back seat behind the driver, while Det. Ludemann was driving, and Sgt. Sinatra was in the front passenger seat. Det. Balcena observed a double-parked vehicle at 160th Street and 107th Avenue. The officers were approximately four car-lengths south of this intersection when Det. Balcena first observed the vehicle. This intersection is "indicative of drug transactions," explained Det. Balcena. She elaborated that five days before she was interviewed at the CCRB, Narcotics had executed a search warrant at a house located on the southeast corner of this intersection. A bodega on the northeast corner of the intersection, directly next to the double-parked car, that is a known drug location. Narcotics conducts enforcement at this location frequently § 87(2)(e), § 87(2)(f)

§ 87(2)(b) The officers continued driving north on 160th Street, and passed the double-parked car. As they passed, a young black male approached the double-parked car and leaned in through the driver's window. The officers pulled into a parking spot approximately four or five car lengths in front of the double-parked car and continued observing. Det. Balcena could not recall seeing anything in the male's hands. The male walked away from the vehicle toward the bodega, then walked back to the vehicle and leaned into the driver's window again for an additional two or three minutes. Det. Balcena could not see if the male entered the bodega when he walked in that direction because there were cars blocking her view. She could not see if the male had anything in his hands when he walked back to the vehicle. Det. Balcena saw "what we observed as a hand-to-hand transaction." When asked what his leaning into the car looked like, Det. Balcena said, "When I communicate with someone in a car, I don't lean into the car. To me, that's not indicative of communicating with someone. From my experience—seven years in Narcotics—that is indicative of a hand-to-hand transaction." She never saw the male or § 87(2)(b) exchange anything. The vehicle started driving north, and the officers followed § 87(2)(b) Det. Balcena could not recall any conversation between her, Det. Ludemann, and Sgt. Sinatra. The car stopped at 160th Street and South Road, turned on South Road, and failed to signal. The officers then pulled over § 87(2)(b) When asked why § 87(2)(b) was not summonsed, Det. Balcena stated that 99 percent of the time, her team warns and admonishes people for traffic violations instead of issuing them summonses. Det. Balcena recalled Det. Ludemann saying to her, "You were double-parked" (Board Review 18).

Det. Ludemann's memo book entry read: "Car stop at 153/South Road. Double park/poss. H2H. Grey Mazda female motorist—warned, admonished. Refuse ID." (Board Review 19). Det. Ludemann stated that the intersection where they first observed § 87(2)(b) parked is a "heavy known drug-prone location." There are numerous arrests made and search warrants executed in the vicinity of this intersection. Det. Ludemann stated that Narcotics detectives know "the entire intersection—from the deli, to the house, to the projects across the street," to be associated with drugs. Det. Ludemann was driving, while Sgt. Sinatra was in the front passenger seat, and Det. Balcena was somewhere in the back seat. They observed § 87(2)(b) car double-parked on 160th Street. Det. Ludemann could not say where the detectives' car was parked, or how far § 87(2)(b) car was from theirs when they first observed her. Det. Ludemann did not notice anything else about her vehicle when he first observed it. A male walked to the driver's side window and leaned in through the window, which he assumed was down, but said that from where he was, he could not see if the window was up or down. Det. Ludemann only recalled that the male was black. Det. Ludemann thought that the male and § 87(2)(b) were having a conversation. Det. Ludemann could not recall how long this conversation lasted, or from where

the male came. He could not recall if he saw him coming from anywhere, including a bodega. The male leaned in so the top half of his body was inside of § 87(2)(b) window. Det. Ludemann cited these factors as the reasons why he believed that § 87(2)(b) and the male might have been involved in a hand-to-hand: the drug-prone location, the car being double-parked, and the male leaning into the car window. The detectives discussed these factors amongst themselves as they were observing the interaction, and drove around § 87(2)(b) to observe her from the front of her vehicle. When asked why being double-parked raised Det. Ludemann's suspicion, he said, "It is just in that area. It just gives us a reason to look into the area. It's illegal." When asked if there was something about being double-parked that was specifically linked to Narcotics transactions, Det. Ludemann said, "Just at that intersection, and because the male approached the car and leaned into the car several times." Det. Ludemann could not estimate how many times he saw the male leaning into the car. Det. Ludemann could not recall if the male ever walked away from the car and then came back. Det. Ludemann could not recall whether the male or § 87(2)(b) spoke to anyone else on the street. Det. Ludemann never saw the male and female exchange anything. § 87(2)(b) then turned onto South Road and failed to signal. Nothing besides her being double parked, the possible hand-to-hand, the failure to signal factored into their decision to stop her (Board Review 19).

§ 87(2)(b) denied that she failed to signal when she turned left onto South Road. Sgt. Sinatra, Det. Balcena, and Det. Ludemann all stated that she failed to signal and that this factored into their decision to stop her. § 87(2)(b) acknowledged that she was double-parked, which Det. Ludemann and Det. Balcena both mentioned as one of the reasons why they stopped her. All three detectives also cited her failure to signal as the final reason they stopped her after observing the possible hand-to-hand. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D—Det. Delcar Balcena frisked § 87(2)(b)

Allegation E—Det. Delcar Balcena searched § 87(2)(b)

Allegation F—Sgt. Mark Sinatra searched the vehicle in which § 87(2)(b) was an occupant.

Allegation G—Det. Delcar Balcena searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that after the officers stopped her, § 87(2)(b) immediately asked why the officers were stopping her. An officer identified as Sgt. Sinatra said, "Where is your ID?" § 87(2)(b) said it was in her pocketbook, which was in the back seat. She pointed to the pocketbook. Before she could reach for her pocketbook to retrieve her ID, Sgt. Sinatra said, "Step out of the car!" § 87(2)(b) asked why she had been pulled over. Sgt. Sinatra told her that her car matched the description of a vehicle that was recently used in a robbery. § 87(2)(b) then stepped out of the vehicle. Sgt. Sinatra told her to stand at the back of her vehicle, and she did so. § 87(2)(b) asked what the problem was. The officers told her to "just stand there." An officer, identified as Det. Balcena, approached § 87(2)(b) and felt the outside of her front and back pockets. § 87(2)(b) was wearing white shorts and she remarked that Det. Balcena should have been able to see that she did not have anything in her pockets. Det. Balcena reached inside her front pockets and then unsnapped her back pockets and reached inside of them. Det. Balcena walked away and

asked § 87(2)(b) again for her ID. § 87(2)(b) repeated that it was in her pocketbook on her back seat. Det. Balcena went around the vehicle and opened the front door. § 87(2)(b) saw her look in the center console, which is underneath the armrest in between the seats. § 87(2)(b) was upset and told the officers that her father had just died. Sgt. Sinatra went to the driver's door, and Det. Balcena went to the passenger side and opened the back door. § 87(2)(b) did not know if Det. Balcena called for him to come over to the driver's side, or if Sgt. Sinatra went on his own. Sgt. Sinatra "did not do much looking," but she saw him look in the driver's side door. § 87(2)(b) asked the third officer, identified as Det. Ludemann, who seemed to be a little calmer, "What this was all about" and Det. Ludemann told her to remain calm and said he was sorry to hear about her father. § 87(2)(b) was embarrassed. Sgt. Sinatra walked to the back of the vehicle where § 87(2)(b) was. Det. Balcena followed him and said "Everything checks out." § 87(2)(b) thought that Det. Balcena searched for a total of five minutes, and Sgt. Sinatra searched for a total of two minutes. When § 87(2)(b) entered her vehicle, she saw that the items she normally keeps in her center console were strewn throughout the vehicle. Her pocketbook was open and its contents were on the seat.

Det. Balcena stated that as she was the third officer in the vehicle, she stood at the back of § 87(2)(b) vehicle during the entire stop. Either Sgt. Sinatra or Det. Ludemann went to the driver's window, and the other one went to the passenger's window—Det. Balcena could not recall who went where. § 87(2)(b) rolled her window down halfway and "yelled belligerently." No one said anything to her before she started yelling. She said, "What are you stopping me for?" and was very aggressive and angry. She also said that she worked for the City and that her son was in the hospital. Det. Ludemann and Sgt. Sinatra spoke to § 87(2)(b) but Det. Balcena could not recall what was said. Det. Balcena did not recall anyone asking § 87(2)(b) from where she was coming or going, or for her license and registration. Det. Balcena walked to the rear passenger window and looked through the window inside of the car. She could see that the vehicle was very messy. There were food containers and bags of garbage. § 87(2)(b) purse was in the backseat and was open. Stuff was spilling out of it. Det. Balcena saw no contraband in plain view. Det. Balcena could not recall if Sgt. Sinatra told the detectives "Let's go," or if he just started to walk away. Det. Balcena and Det. Ludemann started to retreat. Det. Balcena described her reasoning for walking away as: "Sometimes, it's just better to walk away from situations. We could see that there was nothing in plain view, and we just retreated." As the officers started walking away from the vehicle, § 87(2)(b) exited her vehicle and went to open up the passenger door on the driver's side. She yelled, "My purse is here! I will give you my ID." Det. Balcena said, "It's all right. Forget it." Besides when § 87(2)(b) exited her car to retrieve her ID, she never exited her vehicle. She was never asked to step out of her car. Det. Balcena denied frisking § 87(2)(b) and she did not recall seeing another officer do this. She never reached inside of § 87(2)(b)'s pockets, to her recollection, and she did not recall seeing another officer do this. Det. Balcena did not recall opening any of the car doors or seeing another officer do this. Det. Balcena did not recall searching the vehicle or seeing another officer do this. She denied going inside of § 87(2)(b) purse, and she never saw another officer do this.

Sgt. Sinatra stated that upon stopping § 87(2)(b) Det. Balcena went to her window and explained why they stopped her. Det. Balcena told her about the possible drug transaction and the failure to signal. Sgt. Sinatra was on the passenger side while Det. Balcena was speaking to § 87(2)(b) on the driver's side. Sgt. Sinatra could not recall where Det. Ludemann was, or what side he was on. Sgt. Sinatra remained on the passenger side the entire time, even though § 87(2)(b) was alone in the car. He did not recall anyone mentioning anything about a recent robbery or a

vehicle matching the description of a car used in a recent robbery. § 87(2)(b) stated that she was visiting a relative in the area. The officers did not smell anything and saw nothing in plain view. Sgt. Sinatra “immediately determined that she was not involved in a hand-to-hand and that they had no probable cause to arrest her.” Sgt. Sinatra said that he was able to determine this by “her demeanor, mainly,” and the fact that they did not smell anything and nothing was in plain view. § 87(2)(b) s demeanor was “questioning,” and he did not recall her being angry. When asked what about her demeanor made him determine that she was not involved in the hand-to-hand, Sgt. Sinatra said, “The explanation she gave me—that she was visiting a family member. She was an older female.” Sgt. Sinatra stated that he told Det. Balcena to inform her of the infraction and let her go because he did not want to take any further action. Sgt. Sinatra never spoke to § 87(2)(b). Det. Balcena asked § 87(2)(b) for her ID. He could not recall when she was asked—it was during the stop, but he could not say if it was near the beginning or the end. Sgt. Sinatra always informs people that they do not have to provide their ID if they do not want. Sgt. Sinatra did not recall if Det. Balcena said something similar to § 87(2)(b) but Sgt. Sinatra’s team usually provides this information to people they stop. § 87(2)(b) refused to provide Det. Balcena with her ID. Sgt. Sinatra could not recall exactly what § 87(2)(b) stated, but he knew that she did not provide her ID. There were no other attempts to retrieve her ID. Sgt. Sinatra never learned her name on this date. Det. Balcena prepared a 250 with “refused” noted for the name. § 87(2)(b) never exited her vehicle for any reason. Sgt. Sinatra did not recall § 87(2)(b) saying, “My bag is in the back—I can get it for you,” or anything similar. Sgt. Sinatra did not believe she was asked to step out of the vehicle. No one ever frisked her, to his recollection. No one ever reached inside of her pockets that he recalled. The doors were never opened and the car was never entered for any reason. The only investigation of the car conducted by Sgt. Sinatra was to look inside through the windows. Sgt. Sinatra could not recall any of the items inside of the vehicle, including trash or her handbag. He never searched the car, and he never saw or learned of Det. Ludemann or Det. Balcena searching the vehicle.

Det. Ludemann stated that he stayed toward the rear of the vehicle, while Sgt. Sinatra and Det. Balcena went to the front of the vehicle. He did not recall who was on the driver’s side or the passenger side, or if they both went to the driver’s side. He did not know which one spoke to § 87(2)(b). Det. Ludemann never spoke to § 87(2)(b). He could not recall either of them asking for her ID, but he was sure they did. He could not recall what was said to § 87(2)(b). § 87(2)(b) was yelling and screaming, but Det. Ludemann did not recall the specifics of what she was saying. He did not recall her saying that she worked for the City or that her son was in the hospital. Sgt. Sinatra said something to indicate to Det. Balcena and Det. Ludemann that they were leaving, and the three of them retreated to their vehicle. Det. Ludemann did not recall anything being said to § 87(2)(b) before the officers left. Det. Ludemann saw § 87(2)(b) exit her car when the officers were entering their vehicle. He could not recall why she was doing this, but he recalled her going to the back seat of her car. She did not say what she was doing, that she wanted to show the officers anything, or that she was getting something from her purse. This was the only time that § 87(2)(b) was ever outside of her vehicle. She was never frisked or searched. The car doors were never opened for any reason, and no one ever searched the car. From where Det. Ludemann was, he could see inside of the windows of the vehicle, and he could see that the inside was “a big mess,” but he could say what was inside of her car. A 250 was not prepared. Det. Ludemann did not recall hearing anyone ask § 87(2)(b) for her ID. Det. Ludemann could not recall why or how it was determined that this stop was a “refuse ID,” as he wrote in his memo book. It may have

been that no one ever asked for her name, and they put “refused ID” because they did not learn her name.

A frisk is permissible if an officer reasonably suspects that a person is armed and dangerous. People v. De Bour 40 N.Y. 2d 210 (1976) (Board Review 21). A search is permissible if a frisk reveals an object which may be a weapon. Patrol Guide 212-11 (Board Review 22). Innocuous behavior that occurs in a high crime area does not justify a vehicle search People v. McCready 121 A.D. 2d 897 (1986) (Board Review 23).

§ 87(2)(g)

§ 87(2)(g)

Allegation H—Sgt. Mark Sinatra refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after the officers searched her car, they started walking to their vehicle. § 87(2)(b) said, “Can I have your badge numbers?” to all of the officers. Sgt. Sinatra said, “205-something-something” and § 87(2)(b) asked them to wait so she could retrieve a pen and paper from her pocketbook. The officers continued walking. Det. Balcena said, “5757,” and Det. Ludemann said something, but § 87(2)(b) could not recall what he said. The officers entered their car and left.

Sgt. Sinatra did not recall § 87(2)(b) asking any questions. He did not recall if § 87(2)(b) ever asked for Det. Balcena’s shield number. He did not recall if § 87(2)(b) asked Det. Ludemann for his shield number or if he provided it. He could not recall any conversations about shield numbers. § 87(2)(b) never asked Sgt. Sinatra for his shield number. His shield number is currently 4720; however, the shield number when he was a police officer was 28505. When asked if he ever provided either shield number to § 87(2)(b) on this day, he stated that he did not recall if she asked. When asked if he provided it to her for any reason, regardless of her asking, he stated that he did not believe so. He did not believe he provided 28505 to her on this date.

Det. Balcena stated that when § 87(2)(b) exited her vehicle to retrieve her ID from the backseat, Det. Balcena was walking back to the vehicle, and Det. Ludemann and Sgt. Sinatra were already inside of the vehicle. § 87(2)(b) yelled, “What’s your shield number?” Det. Balcena said, “5757” because she had nothing to hide. § 87(2)(b) never asked anyone else for their name or shield number. No one else ever provided their shield number—they were inside of the vehicle when § 87(2)(b) asked. Det. Balcena did not believe that Det. Ludemann or Sgt. Sinatra heard § 87(2)(b) ask for Det. Balcena’s shield number. Det. Balcena never heard Sgt. Sinatra provide any number to § 87(2)(b).

Det. Ludemann stated that § 87(2)(b) did not ask any questions when she exited the car. Det. Ludemann never heard her ask for shield numbers, and he never heard anyone provide her with any numbers. Det. Ludemann never spoke to § 87(2)(b).

According to Patrol Guide procedure 203-09, members of service are required to courteously and clearly provide their shield numbers upon request (Board Review 26).

§ 87(2)(g)

Squad: 9

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date